

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: pending Patent Application :  
of:  
Smith, et al. : Group Art Unit: 1751  
Serial No. 09/665,642 :  
Examiner: OGDEN JR., NECHOLUS  
Filing Date 09/19/00 :  
For: "ALKYL TOLUENE  
SULFONATE DETERGENTS" :

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11/15/02

NOV 18 2002

Assistant Commissioner for Patents  
Washington, DC 20231

GROUP 1700

REQUEST FOR RECONSIDERATION UNDER 37 C.F.R. 1.111

Reconsideration of the patentability of the pending claims in the above-identified Application for patent in light of the contents of this Response by Applicant to the Office Action dated 11/05/02 is hereby requested.

Priority

The 11/05/02 Office Action states on page 2 that:

"This application as filed states that it is a division of Application No. 08/598,695 filed 02/08/96..."

Applicant is unaware of any text in the instant application which states that the present application is a divisional application of any other application. Applicant respectfully requests

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to be informed of the exact location of the text which leads to such a conclusion. The only occurrence of the word "divisional" in the present application is on page 1 at the 5<sup>th</sup> line in the first paragraph of the specification; however, the use of the word "divisional" therein was clearly used in relation to describing 08/879,745 as being a divisional of 08/598,695.

The present application is a Continuation-in-Part application, and is entitled to the priority date of application serial number 08/598,695, because it complies with 35 USC § 120 for reasons below:

- 1) Application serial number 08/598,965 and the present application were filed with at least one common inventor.
- 2) The present application was filed before the patenting or abandonment of or termination of proceedings on the first application or an application similarly entitled to the benefit of the filing date of the application serial number 08/598,965. Namely, the present application was filed before the termination of proceedings on 08/879,745, which application serial number 08/879,745 was a divisional application of 08/598,965.
- 3) The present invention contains a specific reference to the earlier filed application.
- 4) The present application was filed during the lifetime of an earlier nonprovisional application, repeating some substantial portion or all of the earlier nonprovisional application and adding matter not disclosed in the earlier nonprovisional application.
- 5) Priority was claimed in the original Declaration filed in the instant case.

The MPEP (first paragraph of section 201.08) clearly specifies that a Continuation-in-Part application is an application that was filed during the lifetime of an earlier nonprovisional

application, repeating some substantial portion or all of the earlier nonprovisional application and adding matter not disclosed in the earlier nonprovisional application.

The fact that applicant's instant specification repeats some substantial portion of the parent case 08/598,695 is clear from figures 1 and 2 in the present case being identical to those in US Patent 5,770,782 (patent that 08/598,695 matured into). The second paragraph of the present application on page 27 and continuing to the top of page 29 is taken directly from our earlier application 08/598,695 (now US Patent 5,770,782) at col. 4, line 28 to col. 5, line 8. Paragraphs 1 and 2 on page 29 of the instant specification is taken directly from our earlier application 08/598,695 (now US Patent 5,770,782) from col. 5, lines 18-44. In fact, all of the present specification beginning at page 29, last paragraph to page 34 was taken from the parent application 08/598,695. A cursory comparison of the two specifications shows more common subject matter still.

The concept of using the inventive catalyst as described in parent case 08/598,695 for alkylating toluene to provide a heretofore unattainable high 2-phenyl isomer content on a commercial scale in an alkylate for use in detergent manufacture was set forth at line 27 of column 5 of now US 5,770,782. The present CIP application adds further subject matter to this.

Further, it seems likely that claims to high 2-phenyl isomer linear alkyl toluenes in the reference case WO 99/05084 cited in the §103 rejection in the 5/11/02 Office Action are not novel in view of the parent case of Applicant's instant application. Undoubtedly, US 5,770,782 is grounds for rejecting certain claims in WO 99/05084 on the basis of novelty.



## Fax Cover

<b>Date:</b>	November 15, 2002	<b>Total Pages:</b>	5, including cover
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**Comments:**

Dear Examiner Ogden,

Faxed herewith please find a Response to the 11/05/02 Office Action in patent application serial number 09/665,642, having filing date of 09/19/00. The enclosed Response is a 4 page request for reconsideration.

Thank you.

Respectfully submitted,

Christopher J. Whewell, 37, 469  
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